REMARKS

Claims 1 - 7 and 15 – 17 are in the application. Claims 1, 15, and 16 are currently amended; claims 2 – 7 were previously presented; and claims 8 – 14 are canceled. Claims 1, 15, and 16 are the independent claims herein.

No new matter has been added to the application as a result of the amendments submitted herewith.

Reconsideration and further examination are respectfully requested.

Claim Rejections – 35 USC § 102

Claims 1 – 7 and 15 – 17 were rejected under 35 U.S.C. 102(b) as being anticipated by Diacakis et al. U.S. Publication No. 2002/0116336 (hereinafter, Diacakis). This rejection is respectfully traversed.

Claims 1, 15, and 16 are currently amended to recite a "device oriented context" and an "identity oriented context" in each of the subject claims to clarify, for example, that the identity context is oriented or particularly related to the availability of a specific device and the identity context is oriented or particularly related to the availability of a identity. That is, the claims explicitly state that the claimed device oriented context provides an availability status of <u>a specific device</u> and the claimed identity oriented context provides an availability status of the <u>identity</u>.

Further, Applicant respectfully notes that claim 1 relates to a method that includes determining a device oriented context for a specific device associated with an identity, wherein the device oriented context provides an availability status of the specific device; determining an identity oriented context for the identity, wherein the identity oriented context provides an availability status of the identity; determining an availability rule associated with the identity; and determining, for a specific time, a true availability of the identity based, at least in part, on the device oriented context for the

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specific device associated with the identity, the identity oriented context, the availability rule, and the specific time. The method further includes providing data indicative of the true availability of the identity.

Support for the current amendments to claim 1 is found, at least, in the Specification at paragraphs 27 – 55 and FIGS. 1 and 2.

Thus, it is clear from Applicant's claims that the "device oriented context" is separate and distinct from the "identity oriented context". This aspect of the claims is further made clear in the Specification, as well as FIGS. 1 and 2, items 104 and 108.

Applicant respectfully submits that claims 15 (reciting an article of manufacture), and 16 (reciting a system) each include recitations of a device oriented context that provides an availability status of the specific device and an identity oriented context where the identity oriented context provides an availability of status of the identity, similar to claim 1.

Applicant respectfully submits that the cited and relied upon Diacakis does not disclose or suggest, at least, both (1) the device oriented context for a specific device associated with an identity, wherein the device oriented context provides an availability status of the specific device and (2) the identity oriented context for the identity, wherein the identity oriented context provides an availability status of the identity.

Applicant notes that the Office Action continues to cite and rely upon Diacakis for allegedly disclosing determining a device context for a device associated with an identity, wherein the device context provides an availability status of the device, However, Diacakis clearly discloses determining <u>a presence of an individual</u> or, at most, group of individuals based exclusively and explicitly on an identity oriented context (both system and method). Diacakis does <u>not</u> disclose an device oriented context system, method, or application.

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For example, Diacakis explicitly states,

[0026] As used herein, the term "presence" is defined as the ability of an individual to access a particular communications network. For example, if a person is near a landline telephone or wireless telephone that is switched on, that person is "present" on a telephone network, i.e., the person is able to use the telephone network to communicate with other people also on the network. Conversely, if a person is not near a landline telephone or wireless telephone, or the wireless telephone is switched off, then that person is not present on a telephone network, and thus unable to communicate with others on the telephone network. Similarly, if a person uses an instant messaging (IM) application at a given point in time, the person is present on that instant messaging network.

[0027] In addition, as used herein the term "availability" is defined as the willingness of an individual who is present on one or more communications networks to be reached by one or more persons. Following the telephone network example above, if a person is near a landline or wireless telephone and has the intention or willingness to answer the phone when a particular person calls, the person is not only present but available on the telephone network. However, if the person is unwilling or unable to answer either phone when it rings, although present, the person is not available.

[0038] FIG. 4 is a diagram of the P&A management server 12 according to one embodiment of the present invention. As illustrated in FIG. 4, the server 12 includes a presence detection engine 18 and an availability management engine 20. The presence detection engine 18 may determine an individual's presence upon particular networks based on various inputs, as described further hereinbelow. The presence detection engine 18 may transmit the presence information to the availability management engine 20, which in turn may determine the individual's availability based on the presence information as well as additional information, such as the individual's situation and defined rules and preferences. The determined availability information may then be transmitted to subscribers of the individual's availability information via the network 16, as described previously.

[0040] As illustrated in FIG. 4, the presence detection engine 18 may receive various inputs to determine, to the extent possible, the individual's presence. One type of input that the presence detection engine 18 may use to help determine the individual's presence is time-based input 40. (emphasis added)

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Thus, it is clear that Diacakis is explicitly and exclusively related to an identity oriented system and method related to the presence of an individual (i.e., identity oriented system, method, and applications). Specifically, Diacakis discloses, "the presence engine 18 may ascertain the individual's presence on each of the monitored networks" (emphasis added) (See Diacakis, paragraph [0055]).

Thus, it is clear that the cited and relied upon Diacakis explicitly and clearly discloses specifying and/or determining a presence and availability of an individual in an identity oriented system/method/application using appropriate identity oriented context(s). Diacakis fails to disclose the claimed "device oriented context".

Furthermore, the exclusive disclosure and reliance on an identity oriented context by Diacakis appears to teach away from any suggestion of the claimed device oriented context.

Therefore, Applicant respectfully submits that the cited and relied upon Diacakis does not disclose that for which it was cited and relied upon for disclosing. In particular, Diacakis fails to disclose each and every aspect of claims 1, 15, and 16, as is required for anticipation under 35 USC 102(b).

Accordingly, Applicant respectfully submits that claims 1, 15, and 16 are patentable over Diacakis under 35 USC 102(b) for at least the reasons stated hereinabove. Claims 2 – 7 and 17 depend from claim 1. Applicant respectfully submits that claims 2 – 7 and 17 are also patentable over Diacakis under 35 USC 102(b) for at least depending from a patentable base claim. Therefore, the reconsideration and withdrawal of the rejection of claims 1 – 7 and 15 – 17 are respectfully requested, as well as the allowance of same.
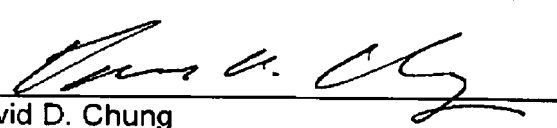
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CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (408) 492-5336.

Respectfully submitted,

August 10 , 2007
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